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Mark Brown, Fire Chief



Tom Tiano, Deputy Chief
Joe Safford, Zoning Officer

CITY OF KINGSTON ZONING BOARD OF APPEALS
MEETING MINUTES
DATE: July 19, 2016

Board Members Present: James Rodden, Chairman, Brian Cafferty, Anthony Argulewicz, Andrew Champ-Doran, Joseph Fitzgerald

Board Members Absent: Donald Mapes

Staff Present: Joseph Safford, Clerk of the Zoning Board, Julie Smith, Clerk for the Building Safety Division, Deputy Chief Thomas Tiano, Kevin Bryant, Corporation Counsel

General Notes: James Rodden, Chairman read the introduction into the minutes. Called the meeting to order at 6:40P.M.

Board approved the minutes from July 8, 2016 meeting.
Motion – Brian Cafferty Second – Joseph Fitzgerald

Item #1: #50 Rondout Landing AREA VARIANCE to rebuilding in place the deteriorated non-ADA complaint ramp. Applicant requests a variance from section 405-8 of the Zoning Ordinance of the City of Kingston, NY. Applicant requests an area variance from the permitted front yard setback of 25' to 0'. Daniel Proctor / Hudson River Maritime. Owner/Applicant

Discussion:

Daniel Proctor on the Board of Directors for the Hudson River Maritime Museum our desire is to improve the front of the museum which is now a bit of an eye sore. We have been around for 36 years. We provide a cultural service to the community. We are in the process of a significant upgrade in the building and the organization. We have created a boat school right next door and we created a boat restoration service and we have other lines of business we want to develop all under the Monocore river part of the Hudson River Maritime Museum 501C3. Right now we have a ramp it is in bad condition. It is very dangerous in the winter time and it

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is not ADA complaint. Our desire is to improve that ramp substantially both the ramp and the façade. We would like to expand the length and width of the ramp we are not in compliance as far as code is concerned. We are already into the City's right away we have 0' of separation at this point. We are asking for an additional encroachment into the City of Kingston's property to allow us to create this new ramp. So the ramp would be 93' long and 8' wide right at the entrance we intend to have an L shape portion that protrudes out further into the City's property bring that ramp very close to the trolley rail tracks. We have an agreement with the trolley museum to provide them access to the museum it would be a trolley stop we want to give them ingress and egress capability to the front of the museum. Unfortunately we didn't get the funding for that portion of the project the drawings reflect that L shape it protrudes to support the trolley system but we will not be able to move forward with that construction at this junction. What we will move forward with is the construction of the ramp itself 93' long and 8' wide. The façade above it will help to keep the rain off of the people. That is what we are attempting to do.

James Rodden – In the packet you included the drawing and the color photo of the proposed ramp. It is much more detailed and updated. I like the fact that is under a cover. This L shape that you are talking about, can you please explain it so we know what you are talking about.

Daniel Proctor – Sure. If you look directly underneath the canopy right at the front entrance you will see a portion that sticks out further? 12' from the front of the building out towards the rail put in a 1' or 2' of the rail. It is sufficiently setback to allow the trolley car to come up and allow the people to step off the trolley car and access the museum.

Brian Cafferty – This is the part that for the time being won't be constructed?

Daniel Proctor – That is correct. Our intention was to build that just as a wooden platform kind of an add on to the ramp. We don't have the funding for it.

James Rodden – You have the handicap ramp coming up from the right side of the entrance. The steps on the left going down that is all part of the project? The only thing not included is the L shape cover over the entrance door?

Daniel Proctor – That is correct.

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Brian Cafferty – It is currently 4 or 5’ wide?

Daniel Proctor – About 6’ wide.

Brian Cafferty – So you’re adding 2’ to it. You are still a ways from the trolley tracks.

Daniel Proctor – That is correct about 12’.

Anthony Argulewicz – Currently the ramp has 0 clearances to this set back it is not on City Property?

Daniel Proctor – It is not on City property it is right on the edge of the City property.

Anthony Argulewicz – The new ramp will have 0 setback and it would be on City property?

Daniel Proctor – Yes

Anthony Argulewicz – Which would be City property, the sidewalk?

Daniel Proctor – It’s the area between the trolley tracks and the front of the museum.

Anthony Argulewicz – It is being used as a sidewalk?

Daniel Proctor – It is not a sidewalk it is a dirt path.

James Rodden – Refer to the photos. You guys want to see the photo of the front of the building. It has a couple cars parked out front with the tracks visible. If you could explain as we can see the tracks those cars will no longer be able to park there? Is that correct?

Daniel Proctor - Yes that is one of the problems we have now. Cars are pulling in there and parking in between the trolley tracks and the museum it is dangerous.

James Rodden – Where that track line is you are going to have a clearance of how far?

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Daniel Proctor – about 2’.

James Rodden – your drawing says you are going to be ADA complaint. What are you going to use for the rail other than the outside fencing that you are going to put up. The walk way is going to be 8’ wide will there be a railing?

Daniel Proctor – My understanding is that there will be an internal rail that people will be able to grasp and assist themselves up or down the rail.

Anthony Argulewicz – I have a question for Kevin. Since this now going to be on the City Property wouldn’t the City need to get some kind of certificate of insurance or some kind agreement, hold harmless, in case someone is hurt on the ramp. That section that is on City property.

Kevin Bryant – I believe the Zoning Board of Appeals doesn’t have the authority to condition that.

Brian Cafferty – This isn’t a variance this is an easement request. You will actually need an easement if you are going to actually build a structure on the City’s property. I am not sure we are in the position to issue any variance that involves an encroachment of the City Property.

Andy Champ Doran – Have you gotten Planning Board approval?

Daniel Proctor – Yes I have.

Brian Cafferty – That question didn’t come up?

Daniel Proctor – Yes it did. They stated that you would be the body that would address this issue. They didn’t have any problem with it. They did say I would have to get liability insurance and talked with our adjuster and they will provide that certificate actually we already provided that to the City.

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James Rodden – We have the right to variance to change use and size to a degree for an easement. I don't know exactly where to send them for that.

Kevin Bryant – At this point I would suggest you continue to get as much information as possible. Consider not making a decision tonight. Which would give me an opportunity to look into this matter.

Joseph Fitzgerald – What is the next step on this thing. How should we advise the applicant to follow up on it?

Kevin Bryant – I will look into it.

James Rodden – The attorney will look into it.

Kevin Bryant – I encourage you to get as much information as possible. You can issue a decision at a later date. I would definitely need to look into this further.

Daniel Proctor – What is your name sir?

Kevin Bryant introduced himself.

Brian Cafferty – I am not really sure there is anything else we can do right now this really involves the City deciding whether or not they want to provide an easement or provide some sort of encroachment. I don't know how you would handle this legally but we can't issue a variance to knowingly encroach onto the City's property.

Kevin Bryant – What I am saying is don't make a decision. It is your call this is the opportunity to get as much information as you can.

James Rodden – On the advice of Counsel that it would be best for both parties to table this and I would ask for a motion

Decision: Table the application until the September meeting. The attorney will be in touch with the Board members directly.

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(JR, JF, AA, BC, ACD – yes)

Item #2: 151 Albany Avenue. AREA VARIANCE to establish a farm. Applicant requests a variance from section 405-9 A (5) of the Zoning Ordinance of the City of Kingston NY. Applicant requests an area variance from the minimum yard requirements of 5 acres in the RRR district for the operation of a farm. Mathew Sweten / Owner/Applicant.

James Rodden – Please explain to us why you would like to start a farm?

Danielle Ledder – I come from a farming back ground. I grew up in Florida and I worked on a farm. I lived right next door to a farm that was primarily cattle. Then I thought I was moving away from that I moved to New York, modeled, traveled the world and I owned a very successful business prior to this it was publishing. I find now that my interests have changed to more community especially here in Kingston and I really want to work on feeding the local community. I have a really good relationship with a lot of the restaurant owners in uptown Kingston and I really want to have a farm cart in the front of our property primarily I would be selling a lot of the fruits, vegetable and duck eggs I have to uptown local restaurants.

James Rodden – The major part of your operation will be wholesale? Small % of retail for the public that is traveling by you, you realize that obviously AlbanyAve is a very busy street.

Danielle Ledder – Yes we lived there a little over a year now.

James Rodden – It calls for 5 acres to do this?

Danielle Ledder – I do understand that in the City of Kingston to do this. Yes but there are numerous successful urban farms throughout the Counties and New York City that operate on even less than what we have right now. Remind everyone here that the City of Kingston actually allows me to have ducks and goats on the property as long as they are properly housed. Which they are. They have the proper square footage. They are all in pens and they are properly taken care of.

James Rodden - I saw your drawings referring to your livestock.

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Danielle Ledder – I am already a state recognized farm. The Department of Agriculture has already approved me to farm the land and as part of doing this properly and going through the farm certification. I am required, was required to contact the New York State Parks and Recreation Historic Preservation and ask for their opinion on the matter and make sure I wouldn't be upsetting anything historical in the neighborhood and they came back saying I would not be. They gave me their approval. I have copies of the letter for all of you.

Anthony Argulewicz – How much property is this?

Danielle Ledder - .34 acres.

Brian Cafferty – I just did the math because on the thing I think is a 1/3 of an acre. I have a question regarding other urban farms is there... I am very familiar with this property because I saw the property many times while it was listed for sale. As far as other urban farms go are there sizes that are smaller than this? This is a very small plot. What kind of production can you do?

Anthony Argulewicz – It is really 1/3 or an acre. You have animals taking up some of that property. .34 acres exclusive sheds for the animals.

Danielle Ledder – It would be duck coops and then a goat shed.

Anthony Argulewicz – limited even further by...

Danielle Ledder – They are part of the farm.

Anthony Argulewicz – In terms as the ground to plant...

James Rodden – Any idea of possible square footage that would be producing the product that you want to sell?

Danielle Ledder – Because it is an urban farm things are grown upwards. Urban farming is not as much as the land you need to have its can you do raised beds with trellis that go up. So we are taking in 16 square feet I can produce 3xs as much as...

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Brian Cafferty – So you will be doing vertical farming?

Danielle Ledder – yes

Brian Cafferty – So that reduces square footage. The challenge for us is that the 5 acre requirement and there 1/3 of an acre. It is a large request for a variance. I understand that code might not be taking into account the changes on how farming happens today. Especially with vertical farming. You can produce an enormous amount of produce in a very small area. However it is the code we work with so if we issue a variance we have to be able to defend it.

Danielle Ledder – No I understand I was actually sitting here and thinking as well working with the City of Kingston possible changing that code considering the advancements that we do have in farming and especially I put this together and I have a business plan there are a lot of people in the City of Kingston that have back yard farms that are interested in selling their produce and getting certified to grow naturally they are producing a ton of produce on plots smaller than what we have I think there should be an update in the code. A lot of farms no longer use 5 acres.

Andy Champ Doran – We can't consider updated codes or codes that maybe coming in the future. What we have to concern what the code is now. You're asking... the requirements for any building is 75' from all of the property lines?

Danielle Ledder – Actually speaking to Joe the City of Kingston it is 6' if it was a commercial farm it has to be 75' but the City of Kingston already allows me to have ducks/or chickens on my property and the pens and/or duck coops only to have to be 6' off of the property lines.

Anthony Argulewicz – Somewhere in there I thought I saw 200' from the street.

Danielle Ledder – I was discussing after speaking with Joe the City of Kingston already allows me to have chickens or ducks

Brian Cafferty – There is nowhere in the City of Kingston you would be 75' off the property line.

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Joseph Fitzgerald – Are you familiar with the Pine Street farm. That certainly is not a 5 acre plot.

Andy Champ Doran – I understand that but no livestock are raised there.

Danielle Ledder – But I am already allowed to have livestock on my property.

Brian Cafferty – They aren't asking for the variance for livestock they already have that. They are asking for a variance to operate a farm.

Andy Champ Doran – 200' from any street or property line.

Danielle Ledder – There are actually several articles in the Kingston Times that were written specifically about this because there are numerous people who keep back yard chickens and from my understanding from speaking again to Joe and other people the City of Kingston has allowed people to keep ducks, chickens and other animals on the property as long as it is 6' off.

James Rodden – That is not the question and the concern is the Zoning is written in that RRR your lot size versus what the requirement calls for. The animal part of it isn't really what you are trying to address a variance so that you can produce?

Danielle Ledder - Actually I can still legally produce my produce it is just the matter of selling it legally. I can still grow it and still give it to people.

James Rodden – The animals are there and there is no concern in this application. Reflects back to size vs size.

Danielle Ledder – Which is why I am asking for a variance. I can grow the produce in the back yard and legally sell as well but I like to do things by the book.

Brian Cafferty – The variance you need is mainly so you can legally sell what you produce on the property not only wholesale but to also have permission to have a small stand out front where people...

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Anthony Argulewicz – That was my question with regard to the stand that will be in the front of your of your house.

Danielle Ledder – Our house is significantly set back and there is enough space.

Anthony Argulewicz – Any requirement in terms of that stand being a certain distance from the front setbacks?

Joseph Safford – They will deal with that through Planning.

Anthony Argulewicz – If this is approved then they go to Planning for the stand?

Danielle Ledder – I would also like to say one of the benefits of approving this versus not approving it actually I am going to have to comply with various departments to make sure I am up to code. When if I continue to do this... legally I am allowed to do this. I don't have to go by the Health Department. Actually I think it is better to have it approved which keeps me up to code and make sure I am complying with the codes from the Health Department.

Brian Cafferty – A lot to consider. There are livestock on the property and there will be growing food. I am assuming you will be using natural fertilizers is there any potential for noise from the livestock? Objectable odors from the farming operations that might affect your neighbors because one of the things we have to consider how does the variance impact the neighbor? The farming will happen in back and little stand out front. None of that seems like it would be an impact.

Danielle Ledder – I want to keep it with the 3 goats and I am only doing females. The male goats smell no interest in keeping male goats. Female goats don't smell they are actually going to be if you look at the aerial view of the map our neighbor to our right Tom actually has 8 acres. The neighbors to our left is actually a state home that runs right along the rail trail. So pretty much our back yard is Tom and I and there is plenty of land back there it isn't like a back yard property line adjoins some body else's back yard. Which might not appreciate looking out their window seeing an animal but Tom actually is very supportive. He apologized that he couldn't be here. But has had sheep in the back yard and chickens he now has 30 hives.

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James Rodden – Getting back to the waste, I saw your environmental study you put information in I think if all of us didn't see it. It says we want to change the use of the land to a farm and want to enlist the USDA certified organic program. There won't be any toxic substances going into the soil therefore we see no significant adverse environmental impact. Already been granted by the United States of Agriculture to farm the land (letter attached) Explain certified organic program for not using that is toxic?

Danielle Ledder – it is a 3 year program that I have to enroll and pay fees, take classes people come out and actually inspect they walk me through the process. When you are certified organic you are not applying pesticides you can apply herbicides and fungicides. I have no interest in doing that because I have very sensitive skin. I also have 3 small children. I like to clean the house with vinegar I don't like to keep chemicals anywhere near my area and also for the safety of them. They smell horrible. That is why farms smell because of the chemicals they are applying to the produce. The livestock don't receive chemical dewormers I use DE just as effective and it is food grade.

James Rodden – How do you dispose of their waste?

Danielle Ledder – I have several friends who have gardens. I am working out a schedule right now the waste they do produce is very minimal. Their pens are lined with hay and once a week I just gather it all up. I am giving it to them I am going to contact Pine Street farm as well to see if they want some. A lot of it will be going into the raised beds soil that I have.

James Rodden – Other than the fact that your lot is undersized for what we are asking the neighbors to your left and right have plenty of green space so you're not interfering with any other neighbor that would environmental change their living habitat.

Danielle Ledder – Correct. And also the home with the mentally disabled they are actually taken a real interest in what we have been doing. One of the patients there is a man my age has now states growing things in front of the home and calling us over so we can see what they are doing. There is another man that loves to come back and watch the ducks.

James Rodden – Any more questions?

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Andy Champ Doran – You mention the pond or lake how does that water shed connect to your property? Maybe you can enlighten me how stuff runs downhill?

Danielle Ledder – It would be no different... it is actually better than if I had grass back there and was applying chemicals to keep my lawn green. Again I am going for my organic licensing so there won't be any run off that would affect his area and his pond.

Andy Champ Doran – Run off from the livestock?

Danielle Ledder – That is nitrogen. He already has geese. It is actually in the migration flight path there is actually geese that come and hang out there every year so no different. A bird is a bird.

James Rodden – Any more questions?

Nobody spoke at the public hearing.

Decision: This application was granted. (JR, JF, AA, BC, ACD – yes)

Item #3: 59 Broadway. Use variance to convert 1st floor space to residential living space. Applicant requests a variance from section 405-19 B1 of the Zoning Ordinance of the City of Kingston. Applicant is looking to convert part of a hair salon to residential space on the first floor. Alicia Beisel/Nicola Coppola / applicant/ owner.

Alicia Beisel – I was going to speak on behalf of Nicholas. But he showed up. But this directly affects me. In 2010 I leased the space from Nick all residential on all 3 floors. He purchased the property in 2001 and it was residential and I came along 2010 and tried to do a hair salon and spa on the 1st and 2nd floors. I ran it for a few years it didn't do well so the spa part had to go. The hair salon is still doing well. It is not a conversion as much as it is a formality. The space has not been changed at all there was always a kitchen and living room on the right side when people lived there that not ever altered whether it was a salon or not so basically I had to down size to keep my salon and for me to afford or keep the space. I have been living there I

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didn't realize that was an issue because it was already living space. So I am asking that it be reinstated.

James Rodden – Is it on the same floor as your beauty shop?

Alicia Beisel – The building itself is 3 stories. The 1st floor when I took the space over was...

James Rodden – I mean now what is your living space now with conjunction to your business?

Alicia Beisel – If you are standing facing the building there is a separate entrance on the left hand side that is the salon. On the right hand side there is another entrance that was living room and kitchen. The middle there are doors that go to a common hallway that leads up to the 3rd floor. 2nd floor was bedrooms when I had it as a fully service salon they were spa rooms treatment rooms.

James Rodden – So basically your living space is not open to the beauty shop.

Alicia Beisel – There is about a 3' opening doorway with 2 steps down which I have portioned off with a curtain.

James Rodden – What kind of chemicals do you have on site that would be flammable or combustible?

Alicia Beisel – All I have is hair color.

Brian Cafferty – That commercial space where the storefronts were completely residential before you installed the salon?

Alicia Beisel – Yes for 15 years prior.

Brian Cafferty – So you only put the salon on one side of this?

Nicola Coppola – Originally when she decided. I had a tenant move out. I did rent it as an apartment. It is hard to rent that just as an apartment because you are right on the highway.

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Alicia was interested in the parcel so Alicia did rent that and both floors which was originally all residential when Alicia moved in she was struggling to stay there pay rent for the commercial space and not live there.

Brian Cafferty – I got that part. So she downsized. She isn't upstairs anymore your living space is partially on the lower level and partially upstairs?

Alicia Beisel –Because there is a kitchen already there it has always been there.

Joseph Fitzgerald – If it is just 3 steps down...

Nicola Coppola – When you look at the building. The main entrance there are 3 entrances to the building. There is one on the left, common hallway, and one on the right. Almost like you could subdivide that. What Alicia did is she is keeping the left side as her business and the right side is where her kitchen is and her sleeping quarters are upstairs.

Alicia Beisel – There is a staircase that leads up to it. Everything is intact the way it has always been.

Brian Cafferty – Joe I have a question. When this was all residential was this thing inspected and approved at the time as all residential or was it one of those deals.

Joseph Safford – In 2001 there is a building permit to change to residential. Then it was a legitimate 3 family.

Anthony Argulewicz – Variance is 2001?

Joseph Safford – Nothing in the file. However it was listed as a 3 family.

Anthony Argulewicz – A very important part of the criteria for a use variance is that particular property cannot realize a reasonable return by having what is designated in that zoning area. I think it is something we need to be more concerned with because usually on the application the least information as possible and no offense but I am not seeing a substantial financial information here that would make me believe that a reasonable return couldn't be obtained by

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you renting out that store front as what is allowed in the RT district. I am not seeing any kind of monthly mortgage amount is there a monthly mortgage? May I ask how much?

Nicola Coppola - \$1390.00

Anthony Argulewicz – What are your expenses on this building as the owner? Your monthly mortgage?

Nicola Coppola – Monthly mortgage is \$1390.00 not including the taxes.

Anthony Argulewicz – And you charge for the salon and the residents you charge \$1580.00?

Nicola Coppola – yes to Alicia. \$700 & \$700 that does not include the water, taxes or insurance.

Anthony Argulewicz – You don't have any amount in there for taxes.

Nicola Coppola – I would have to look those numbers up.

Anthony Argulewicz – I can't make a decision which is required by law for a use variance that a reasonable return without these financials.

Brian Cafferty – I am baffled. If we give her a use variance for what is already there hows that any financial benefit to...

Anthony Argulewicz – Because of the criteria... we need to ask pertinent questions to the applicant. Part of the legal criteria for a use variance the property owner has to show that they can't get a reasonable return on the property using a stipulated type of business or whatever within that building. So the question I guess that you are asking is 1st of all no financial information in here which is a requirement. 2nd we need to discuss it. The attorney can correct me if I am wrong is part of the criteria. This should go on the record that we at least filled that criteria in our deliberation. I am not talking philosophical. My philosophy maybe be totally different. I am reading what the law says for a use variance. So if I may proceed and ask my questions. You don't know what your yearly expenses are?

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Nicola Coppola – I don't have the fact and figures because I do have other properties. Taxes for property and school are around \$12,000/yr.

Anthony Argulewicz – What is supposed to be in a store front in the RT district is commercial space. So the salon is fine and the left side but on the right side it is supposed to be commercial space. So you could rent that out to somebody who wanted to put something in there commercially and you can still rent out the 2nd and 3rd floor as residential.>

James Rodden – Your kitchen is on the right side? Don't know how that could be an established kitchen for an apartment on the right side.

Anthony Argulewicz – my one point 2001 we are being told that...

James Rodden – It is no open space it is an open space it is... (everyone is talking inaduable)

Anthony Argulewicz – It is a commercial space according to the picture.

Brian Cafferty – But it was converted to residential.

Nicola Coppola – Before me. 3 yrs. prior.

Brian Cafferty – and they got a building permit for it.

Anthony Argulewicz – I can give you a case we recently decided.

James Rodden – We need to stay on focus.

Anthony Argulewicz – I guess I am not going to get my answers with regards to the financials which are very important.

James Rodden – He gave us \$1390.00 mortgage, \$1000.00 taxes...

Anthony Argulewicz - \$600.00 heat.

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Alicia Beisel – Let me apologize I filled out this application. Considering all the numbers you see are my personal this is a mistake.

Anthony Argulewicz – I need the owners... we need to analyze the owners numbers. What the monthly numbers are from the owner? Do you have an idea?

Nicola Coppola – Insurance is around \$4000.00/yr.

Anthony Argulewicz – Monthly electric? You don't pay for the electric?

Nicola Coppola – I do I have a landlord meter.

Brian Cafferty – I don't think we are going to get all of these numbers.

Nicola Coppola – I am estimating but I am close.

Brian Cafferty – I have a question. Is it possible that... is there a way for you to live upstairs completely and rent the downstairs as commercial only?

Alicia Beisel – It would have to be completely renovated.

Nicola Coppola – If she were to live up there and the bottom as commercial space?

Brian Cafferty – Yes live upstairs and the salon stays where it is the other store front now has a kitchen and whatever else in it. Can that be rented as commercial space?

Alicia Beisel – you would have to put a kitchen in and you would have to sheetrock it and a doorway on the second level. The 1st and 2nd are all one?

Andy Champ Doran – Is there a kitchen?

Nicola Coppola – Upstairs no. There is a bathroom. Originally... the upstairs hasn't changed.

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Brian Cafferty – I think that answers the question.

Anthony Argulewicz – What would answer the question? If you had an idea on what it would cost to renovate the 2nd floor to make it a full apartment. That would answer the question.

Brian Cafferty – It is not only the 2nd floor that needs to be renovated to a full apartment you would basically clear the store front out. We are talking about a substantial amount of money.

Anthony Argulewicz – That would be a consideration against the term of the reasonable return.

Alicia Beisel – I understand completely that is Nick's property and I am the tenant but I don't have to say I am a Kingston person I have lived here all my life my salon has been done in the Rondout for 20 years it would be hard for me. I would be forced to move out my salon would not be there. I would not be living there. It would put me in a hardship position.

Anthony Argulewicz – you would have a satisfactory apartment on the 2nd floor.

Nicola Coppola – The thing is Alicia would have to pay much less rent. Basically the rent right now for the 2 floors is not that much \$700 is for the top 2 apartments.

Alicia Beisel - \$1580.00 for 2 floors for residential and commercial.

Nicola Coppola – Now if she was just to pay for the store than I would have to look for another tenant. I would have to divide. Take the kitchen out the way it was before remodeled everything dry and rent the 2nd space. The store front is not that big. Alicia wouldn't be able to afford both sides because of the way the entrance is in the building. There is also a stair case going upstairs inside that takes on the right side of the building when you are facing it when you are going upstairs to the apartment you have to take stairs out. Divide the 2nd floor 2 brand new entrances put kitchens upstairs but bathrooms there is only one bathroom upstairs. I don't have the figures in front of me because I didn't compute it. But it will be substantial.

Anthony Argulewicz – In terms of variance. There was a variance granted June 1981. 1st floor will remain commercial 2nd and 3rd floor 2 apartments. 1st floor commercial, 2nd & 3rd floor apartments?

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Alicia Biesel – Somewhere along the line 1981. I have been down there for 20 years. Before Nick I had my salon next door.

Anthony Argulewicz – Where you there in 1981?

Alicia Beisel – No but what I am trying to get at 1996 I was there there was an older couple Mr. & Mrs. Burns that bought the building and renovated it into their living space they are the one that the local architect.. I feel like there is some paperwork missing. They go a variance to turn into residential but that would.

Anthony Argulewicz – That would make life easier if there was a variance.

Brian Cafferty – Joe you said it was converted all into residential.

Anthony Argulewicz – without a variance

Alicia Beisel – Scott Dutton was the architect that did the redo.

Anthony Argulewicz – Please understand it isn't anyone trying to not allow you the RT district is very specific in the zoning requirements. The RT district is very specific zoning requirements. Even diversified within the one side of Broadway and part of the RT is the design of those building store front in the bottom apartment up on top this would be a deviation that why you need a use variance to allow living space on the ground floor.

Andy Champ Doran – The variance out lives you. The variance lives with the building.

Brian Cafferty – That is where I struggle ideally the ground floor should be all commercial and if we grant a variance which runs with the property we would be essentially taken that one store front making it residential and it can stay like that until someone comes back and asks to convert it back.

Andy Champ Doran – I see you in your application where you the sentence that across the street there is residential on the 1st floor but that is in a different district.

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Anthony Argulewicz – The RT district is very regulated that is why I would love to see in 2001 the variance because that would run with the property. We aren't finding the paperwork.

Nicola Coppola – When I purchased that property I purchased a 3 family.

Anthony Argulewicz – Who said it was a 3 family.

Andy Champ Doran – According to the variance from 1981

Nicola Coppola – The bank financed it as a 3 family.

Andy Champ Doran – The 1st floor remains commercial 2nd and 3rd floor to one apartment plus commercial.

Nicola Coppola – When the bank financed it as a residential as a 3 family.

Anthony Argulewicz – It is a 3 family.

Nicola Coppola – Don't they check with the town.

Andy Champ Doran – Was there a title search

Nicola Coppola – Yes

Brian Cafferty – If you purchased it in 2004 and you got a mortgage there would have been a municipal search. What is says it was a 3 family but the lower level would remain commercial.

Nicola Coppola – When did you move in?

Alicia Beisel – 2010

Brian Cafferty – It sounds like to me that the lower level especially the 1 side was converted to residential without a permit.

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James Rodden – We aren't the bank. We aren't a real estate company. We are getting way off of the scope of what we need to zero in on. Julie have you found anything to support the variance that we are trying to find?

Anthony Argulewicz – This letter from 2005 from Nancy Coppala from Mike Lefevre property use is a 3 family.

Brian Cafferty – I would like to make a motion that we table this until we could do further research on what variances and what other documents are available on this property. Pull the entire file and find out what variances it does have to determine whether or not the conversion under a variance or not under a variance whether a permit was obtained because I don't think we really could go any further until we have more information.

James Rodden – I think that is a general consensus of the Board. We are going to meet in September there is no meeting in August. I would ask that you gather as much information and financials available to you. We need to get some definition there are unanswered questions. So we are going to table this. Please come back in September. I think you have seen the direction that the questioning is going so you know what we are looking for.

Anthony Argulewicz – Also on your behalf if you can find anything in your files or your attorney that would be related to this 2001 possible variance would be very helpful.

Nobody spoke at the public hearing.

Decision: Table the application until the September meeting.
(JR, JF, AA, BC, ACD – yes)

Item #4: 3 Fairview Avenue Extension To park 2 vehicles in the front yard setback. The applicant requests a variance from section 405-35 E (4) of the Zoning Ordinance of the City of Kingston NY. Applicant would like to park 2 vehicles in the front of the house to make entry and exit safer. Kathleen Warncke. Applicant/owner

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James Rodden – This is a repeat request. We heard your application back 1 year ago and the decision at that meeting was to deny your request. In your packet that you all received the transcript of the meeting was in there so you all know what is going on. I just want to read an email that was sent to us by Albert Tetsel (attached)

*** Mr. Berardi was throwing papers across the table and some of the conversation was inaudible due to the papers covering the tape recorder.***

James Rodden – I just wanted to read that because it was received today. As I said earlier we have heard your application. Before we start the proceeding please introduce yourself.

Kathleen Warncke I live at 3 Fairview Avenue Extension.
Frank Berardi her brother in law I reside at 158 First Avenue.

James Rodden – and your connection to the property is?

Frank Berardi – Brother in law.

James Rodden – Are you going to speak for Mrs. Warncke?

Frank Berardi – yes

James Rodden – Do you have her permission?

Kathleen Warncke – He does.

James Rodden – Can you tell me what has changed at 3 Fairview Avenue Extension since we met last year?

Frank Berardi – Do you want to talk about the last meeting or the actual physical property?

James Rodden – What has changed at 3 Fairview Avenue Extension?

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Frank Berardi – I have obtained a lot of information about the last meeting about how it was done improperly. We don't want to discuss that here. We want to discuss that we reduced the size of the parking area from what you have seen. The neighbors were concerned it would be turned into a parking lot. We reduced the size so it is adequate for 2 cars to park there. What you have seen if you go there to at it is actually the full size would be reduced but until we get the variance and also whether it would be difficult to regrow grass on that side that is reduced. Obviously you could not grow grass on it this time of the year.

James Rodden – Are you parking in front of the house now?

Frank Berardi – We are parking there because we were parking on the street legally and the neighbor next door to Mr. Sweeney we were probably in the section between the 2 houses come out and made several remarks that were inappropriate and then also threatened to slash my nieces tires the Police were called and they told us to alleviate that problem just to park in the parking area. We were parking legally behind Mr. Sweeney is truck were he has had friends park there but for whatever reason we don't want to get into that here she is not amicable to use parking there so...

James Rodden – Can I ask you a question sir? You state your address someplace on First Avenue.

Frank Berardi – Yes 158 First Avenue.

James Rodden – When you reference this property. You speak in the narrative of we and us...

Frank Berardi – We are family. Maybe you don't talk that way about your family but I do!

James Rodden – No that is not what I mean. You don't live there?

Frank Berardi – No

James Rodden – you can't speak as you live there. You can tell me what you want to tell me but you don't live there and also I read Mr. Teetsel's letter. I have listened to some of your

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comments and it is almost like you are looking for a solution from the neighbors where there is a lot of unrest and maybe some folks don't get along.

Frank Berardi – inaudible

James Rodden – We aren't here to solve neighborhood problems. What we are here to do is to address area and use variances. You are requesting a front yard setback to park 2 vehicles in the front yard. My next question is winter time has come and gone that was a major concern on your previous application. How did you survive this winter? Did you park in your front yard, down in the back or park on the street?

Kathleen Warncke – We parked in the street or we parked on the grassy area on the side of Alma's house which is next door to me. Of course there is ice and snow and I have a young great grandchild that lives with me that I am responsible for. For me to get in and out a vehicle and walk across a grassy area is ridiculous.

Frank Berardi – We had to do that to satisfy the stipulation from the last meeting.

Kathleen Warncke – When I have a nice spot and I understand that they are concerned that it doesn't look good for the value of their property. I get that. But they didn't even give us a chance to even finish what we started we planned on putting in landscaping. I only lived there a very short period of time when this issue stated to appear. Now I have neighbors that are so irritate that I can't even park on the street because the Sheriff's Department , City of Kingston Police Department say please move your vehicle so this could be resolved and park in that area so they want me to park there you don't want me to, not saying you, don't want me to park there. But you will make the decision. Going down into the back the water system is in the center of the driveway for me to park back there and carry my great grandson up that hill or even go through the basement door because you can't legally park in my basement it not a safe thing to do so those steps are very steep as well and some women don't like to admit it but let's face it I am not getting any younger here. There is going to come a time when I won't be able to walk up those stairs. You say well may be the child could walk, that is true but at this point we are waiting on results we have early intervention coming from the state sometimes they come with 3or 4 or 5 vehicles. Where am I supposed to put all of those vehicles? I can't park

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them here or there isn't enough room in the driveway and they would have to carry all of their bags up the driveway in the winter time. I don't understand.

Anthony Argulewicz – What are the changes? Specifically. When you came before us a year ago I was on the Board and so was some of the other members, some are new and some of us voted previously. How many cars are going to be in the space when you came a year ago?

Frank Berardi – 3

Anthony Argulewicz – So your request changed from 3 to 2 and the size was what to what?

Frank Berardi – 30' wide down to 22'. We actually kept it at 26' deep the idea was when we built it originally there was... Mr. Sweeney had a camper we didn't know he moved it every winter we didn't know he wasn't bringing it back in the spring.

Anthony Argulewicz – Changes are 3 cars to 2 cars and 30' wide to 22' wide the setback the design of the pad is still right on the street. There is no setback?

Frank Berardi – no setback but we made it 26' deep the idea was when we build it was to put landing ties at the 26' we would pull up against those ties. You wouldn't have to park on the road.

Anthony Argulewicz – The 26' to me is not relevant to the setback. There is still a 0' setback there should be 15'. When did you start parking on the pad?

Frank Berardi – about a month ago

Anthony Argulewicz – that was when the police came?

Kathleen Warncke – Officer Rclo yes

Anthony Argulewicz – There would be a report?

Kathleen Warncke – Yes.

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Brian Cafferty – Parking on the pad what are you talking about?

Anthony Argulewicz – They a made a paved stone pad where they park the cars in the front yard. Parking for 2 cars which are in the City's right of way.

Brian Cafferty – They already did this?

Anthony Argulewicz – We denied it. After the fact the neighbors called it in and complained back then to Mike Lefevre went to inspect found it was not in compliance with zoning brought it to us.

Frank Berardi – To give you a little background. When we built it Mr. Sweeny who is a City employee lives directly across the street had added onto his driveway one parking spot. Which is where he parks. He has the ball hanging from his gutter so he can pull up as close as he can to his house and is truck has a hitch on it and it actually sticks out into the road. So we saw him do that so if you want to call it ignorance we did the same thing we make it a larger parking area. We didn't just...

Anthony Argulewicz – My other question is without getting neighbors involved again. Is there any way where you could get some kind of setback for this pad and still satisfy the 2 cars and the 30' wide to 22' wide without the pad sitting right on the street without a setback? Is there an alternative to having no setback?

Frank Berardi – I don't think there is enough room I could measure it between the house and edge of it 8'.

Anthony Argulewicz – Probably too close to the house.

Kathleen Warncke – I believe so yes.

Anthony Argulewicz – And if you did just as an alternative you would at least have an 8' setback if you moved it closer to the house. Part of our responsibility is to find if there are alternatives in granting an area variance.

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Brian Cafferty – That driveway is how long? The one that goes around to the back?

Frank Berardi – 50’

Brian Cafferty – There is parking for 2 cars in the back?

Frank Berardi – No there is barely room to turn a small car a round in the back. The only way Mr. Little had been able to turn around...

Brian Cafferty – But you have more yard

Frank Berardi – Correct but either during building or afterward you still have the problem of the storm sewer going through the driveway. So when we are building it we would have to be concerned about damaging the storm sewer and who will be responsible who is going to pay the bill on that and after it is built as it is right now the black top is falling apart you start driving over it, the city has to do any repairs you are going to have a patch in your driveway that is always going to be falling apart there is a retaining wall that has been damaged.

Anthony Argulewicz – That was the reason that the then Board denied it because they felt there was an alternative that cars could park in the back.

Brian Cafferty – Yes that alternative still exists plus there is parking for 4 cars in tandem in this driveway.

Kathleen Warncke – What do I do with my early intervention people when 4 or 5 of them come at the same time?

Brian Cafferty – They park on the street.

Kathleen Warncke – We aren’t allowed to park on the street because of the neighbors.

Brian Cafferty – How often to the Early Intervention team show up?

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Kathleen Warncke – 1-2xs a week, 1-1x a week, 1 every 2wks and every few weeks they come for one big meeting.

Frank Berardi – If you were there you would say that if you are in the driveway with 2 or 3 cars you could back out and turn around but you have to either back down the street or back into the neighbor's driveway which is not going to work or try and back in the neighbors to the left and they have a utility pole on one side and a fire hydrant on the other. It is a difficult place to turn around.

Brian Cafferty – I have to tell you I think you have plenty of driveway you have room in the back of the property. The question of the sewer that is certainly something that can be worked out with Department of Public Works. I think turning your front yard into a parking lot is...

Frank Berardi – It is the same as everyone else's on the street.

Brian Cafferty – I wouldn't necessarily agree with that either. Just because there are other people that have parking lots in their front yards doesn't mean we should continue with that trend.

Anthony Arguewicz – Probably pre-existing non-conforming.

Frank Berardi – not the one on 62 Coffey not 2 Fairview Avenue Extension.

Anthony Arguewicz – When were the other put in?

Frank Berardi – Mr. Sweeney 6 months before and 62 Coffey 3 months.

Anthony Arguewicz – I remember you presenting that to the committee and showing photos of other house with parking areas with any kind of setbacks but they are generally were driveways. Maybe another house there with parking similar to yours I don't know when it was put in place could have been pre 1963 preexisting I am not going to deny because I drove up to look at your property and see I was a little dismayed to see a car parked there knowing we have denied it but you explained that now by the police telling you you could... it is much less than ideal. I used your driveway to do a 3 point turn there is no other way you could turn around there.

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Frank Berardi – Maybe because you haven't been there, there was a row of bushes up the existing driveway that were on the edge of the road from the previous owner that precluded you from even turning around on the lawn or maneuvering an extra car because you couldn't open your car door. You couldn't park in front of the house because the bushes were on the road. We eliminated that so called inconvenience when we did this also. In the thought we were going to make it better for everyone. Whether it was your making a mistake going down the street. The other day a delivery truck came to Mr. Sweeney's where was it going to turn around? He turned around in that parking area. It is a dead end it has utility poles and if the hedges were still there...

Anthony Arguewicz – But there is one thing... it is not in compliance with zoning.

James Rodden – I just heard you say that you have folks that come for medical needs with 4 or 5 cars. So this 2 car parking area in your front yard is not going to resolve the problem. It is just a band aid for 2 cars to be off the street. You are still going to have 4 or 5 cars so you will still have the same problem. You didn't solve the problem. You got 2 spaces in the front so you didn't have to park in the back and that is where I am at now. Maybe you can help me?

Kathleen Warncke – I can because... when I am home and they come my car is parked in the driveway and my significant other is parked in the driveway. If those 2 cars were parked on here we could fit those 3 or 4 cars with a problem. Not everyone is home when they come so even if they had 5 cars I would be the only one there and could fit 2 & 3. My granddaughter works during the day the baby's father works during the day that eliminates 2 cars most of the time. I work during the day and my significant other is home when Early Intervention comes so that leaves 1 car so now when you have 4 or 5 coming you still have an area for 3 cars in the drive and 2 cars here.

James Rodden – That elevates the problem of making a permeant spot in the front for 2 cars because you are telling me you can park 3 cars in your driveway when the need arises.

Brian Cafferty – 4

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Frank Berardi – Even if you park those 4 cars in the driveway once they are in there without that area to turn around how are they going to get out?

Brian Cafferty – You back out onto the street.

Frank Berardi – You can't the street is not wide enough you can't go on Mr. Sweeney driveway he will complain. What is the detriment to the neighborhood? He has gone there and used it to turn around the delivery trucks use it to turn around. A month ago Mr. Sweeney pulled a washer out of his basement fortunately he didn't have to call the Fire Department I am sure they would have appreciated not having the bushes there.

Kathleen Warncke – Our driveway is very narrow. When you get along the side of the house so in the winter time when you're going in and we aren't using a lot of salt or dirt because you have a water and sewer system there that isn't good for the environment. It doesn't matter if I am a good environmental person or not but that is not good and because the space is so crowded when you come down in you are either scraping the car with the bushes or you are so close to the side of the house you can't open the car door. So now you have to stop here and unpack back the car up. We all work different hours. My significant other leaves at 330AM doesn't come back until 9AM the next morning. Steven leaves at 8AM goes to school and then to work. I go out sometimes I have to be to work 5AM, 6AM, 7AM we are constantly maneuvering vehicles so the 1st person can get out. I come home at night do you think I want to say to John you have to get out of bed to move your car so I could park? This is ridiculous.

James Rodden – Any other questions?

Kathleen Wernicke – Mr. Teetsle came down he was very nice when he spoke to us but Mr. Teetsle has significant room where he could take his fence down and put his driveway say he has trouble backing out onto Fairview Avenue because of the angle of the turn it is bad. One stop sign 10 out of 10 cars go through it. Take your fence down. Where he is saying I could go down the back and turn around or park down there but I still have to turn around with my jeep I have to back onto my lawn. Which is going to ruin my lawn I don't want my lawn ruined. I am not asking for a million dollars I just want to be treated fair.

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Anthony Argulewicz – I want to read this the law area variance whether they sought can be achieved by some method feasible for the applicant to pursue, other than an area variance. With the legal language in mind what kind of set back as an alternative could you give on that property. Is there a number that you could state for the record on that pad?

Frank Berardi – How would you figure it?

Anthony Argulewicz – I am not giving any solutions I asked the question.

Frank Berardi – Let's just say this is the parking area 26' deep how big do you consider a parking area? I can't give you that number without you giving me the size of the parking area.

Anthony Argulewicz – I just asked the question

Kevin Bryant – Can I offer a suggestion? Without everyone actually seeing it you may not get a full understanding it could be a good idea to actually take a look at the site and then that could give you a different level of clarity and understanding about what is going on.

Anthony Argulewicz – I looked at the front I didn't look at the back because I couldn't see it without asking permission to do so.

Brian Cafferty – I am looking at it from an ariel view and I think there is a solution to this is problem that doesn't involve turning the front yard into a parking lot.

Kevin Bryant – All I am saying is you have the option. Come back after you visit the property and you will be fully informed. Would you guys have a problem with that?

Kathleen Warncke – Absolutely not.

Brian Cafferty – Can we table this until the following meeting? I don't know about anybody else due the double meeting I didn't have time to get out to look at these things.

Anthony Argulewicz – You saw it Jim?

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James Rodden – I have I was there in the past I nosed into the driveway I didn't go all the way down into their back yard because I didn't have permission. I have been to the site.

Kathleen Warncke – When you come and see the driveway there 2 retaining walls that Mr. Little had put in and they are well as the black top... they are starting to cave.

James Rodden – What we are going to do... there are new members on the board who have not had the opportunity to view the property. We aren't going to meet again until September so that gives everyone time to go there. We will probably park on the street. We will knock on your door and let you know we are there.

Deputy Chief Thomas Tiano – Visit during the day and at night. More cars at night and then you can see the difference.

James Rodden – We will show up not all at one time. I hope that will not be an inconvenience to you.

Kathleen Warnecke – Usually there is someone there.

Anthony Argulewicz – As a group?

James Rodden – no individually so we don't trigger a meeting.

Anthony Argulewicz – How do we arrange individual meetings?

James Rodden – Anytime you choose.

Frank Berardi – Anytime you choose.

Kathleen Warncke – John is usually home during the day.

Anthony Argulewicz – If they are willing to give us a phone number we can call ahead to see if someone is home and we can see if we can go at the point.

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James Rodden – There is a phone number on the application.

Brian Cafferty – Do you have permission to walk down your driveway?

Kathleen Warncke – Yes you do.

Nobody spoke at the public hearing.

Decision: Table the application until the September meeting so the new members can go take a look at the property.

(JR, JF, AA, BC, ACD – yes)

James Rodden – Closed the meeting